



STADIUM AUTHORITY

LEGAL AD DATE: September 11, 2009

INVITATION FOR BIDS
No. IFB-10-02-SA-EMM
SEALED OFFERS
FOR
FURNISHING MAINTENANCE AND REPAIR SERVICES OF
ELEVATORS AND ESCALATORS
AT THE ALOHA STADIUM
FOR
STADIUM AUTHORITY
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

WILL BE RECEIVED UP TO AND OPENED AT 10:00 A.M. (HST) ON

SEPTEMBER 25, 2009

IN THE STADIUM AUTHORITY ADMINISTRATIVE OFFICE, 99-500 SALT LAKE
BOULEVARD, AIEA, HAWAII 96701. DIRECT QUESTIONS RELATING TO THIS
SOLICITATION TO SHELLY SHOJI, TELEPHONE 808-483-2764, FACSIMILE 808-483-2823
OR E-MAIL AT shelly.m.shoji@hawaii.gov.

SCOTT L. CHAN
Procurement Officer

IFB-10-02-SA-EMM

Name of Company

MAINTENANCE AND REPAIR SERVICES OF ELEVATORS AND ESCALATORS
AT THE ALOHA STADIUM FOR STADIUM AUTHORITY
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
IFB-10-02-SA-EMM

Office of the Stadium Manager-Stadium Authority
P.O. Box 30666
Honolulu, Hawaii 96820-0666

Dear Sir:

The undersigned has carefully read and understands the terms and conditions specified in the General Specifications and Special Provisions of IFB-10-02-SA-EMM, and the General Conditions, Form AG-008 (4/15/09) included by reference and made a part hereof and available upon request; and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof.

It is understood and agreed that the State reserves the right to accept or reject any or all offers, and to waive any defect in any offer when, in the opinion of the State, such rejection is in the best interest of the State.

The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

Offeror is:

☐ Sole Proprietor ☐ Partnership ☐ **Corporation ☐ Joint Venture
☐ Other _____

*State of incorporation: _____

Hawaii General Excise Tax License I.D. No. _____

Payment address (other than street address below): _____
City, State, Zip Code: _____

Business address (street address): _____
City, State, Zip Code: _____

Respectfully submitted:

Date: _____ (x) _____
Authorized (Original) Signature

Telephone No.: _____
Fax No.: _____
Name and Title (Please Type or Print)

E-mail Address: _____
** _____
Exact Legal Name of Company (Offeror)

**If offeror is a "dba" or a division of a corporation, furnish the exact legal name of the corporation under which the awarded contract will be executed:

The following bid is hereby submitted for Maintenance and Services of Elevators and Escalators at the Aloha Stadium as specified herein:

Group A - Monthly Services

<u>Group A</u>	<u>Bid Price Per Month*</u>	<u>No. of Months</u>	<u>Total Bid Price</u>
Original Contract Period	\$ _____ X	12 =	\$ _____
1 st Supplemental Year**	\$ _____ X	12 =	\$ _____
2 nd Supplemental Year**	\$ _____ X	12 =	\$ _____
3 rd Supplemental Year**	\$ _____ X	12 =	\$ _____
TOTAL BID PRICE – GROUP A (4-YEAR PERIOD):			\$ _____

Group B - Estimated Extra Work Beyond Regular Monthly Services

<u>Group B</u>	<u>Standard Hourly Rate</u>	<u>Estimated Hours Per Yr.</u>	<u>Estimated Total Bid Price</u>
Estimate Extra Work*** Standard Service Hours/Yr. Original Contract Period**	\$ _____ X	48 =	\$ _____
Estimate Extra Work*** Standard Service Hours/Yr. 1 st Supplemental Year**	\$ _____ X	48 =	\$ _____
Estimate Extra Work*** Standard Service Hours/Yr. 2 nd Supplemental Year**	\$ _____ X	48 =	\$ _____
Estimate Extra Work*** Standard Service Hours/Yr. 3 rd Supplemental Year**	\$ _____ X	48 =	\$ _____
ESTIMATED TOTAL BID PRICE-GROUP B (4-YEAR PERIOD):			= \$ _____

Group C - Required Stand-By Services For Major Events (Collegiate And Professional Games, Concerts, Etc.) Will Be At An Eight (8) Hour Period.

<u>Group C</u>	<u>Total Bid Price per Event</u>
8-hrs. Special Event Standby/Event Original Contract Period **	\$ _____
8-hrs. Special Event Standby/Event 1 st Supplemental Year**	\$ _____

8-hrs. Special Event Standby/Event
2nd Supplemental Year** \$ _____

8-hrs. Special Event Standby/Event
3rd Supplemental Year** \$ _____

TOTAL BID PRICE – GROUP C per event (4-YEAR PERIOD) \$ _____

Group D - Estimated Extra Standby Hours Beyond 8 Hours

<u>Group D</u>	<u>Standard Hourly Rate</u>	<u>Estimated Hours Per Yr.</u>	<u>Estimated Total Bid Price</u>
Estimate Extra Standby**** Service Hours/Yr. Original Contract Period**	\$ _____ X	24 =	\$ _____
Estimate Extra Standby**** Service Hours/Yr. 1 st Supplemental Year**	\$ _____ X	24 =	\$ _____
Estimate Extra Standby**** Service Hours/Yr. 2 nd Supplemental Year**	\$ _____ X	24 =	\$ _____
Estimate Extra Standby**** Service Hours/Yr. 3 rd Supplemental Year**	\$ _____ X	24 =	\$ _____
ESTIMATED TOTAL BID PRICE-GROUP D (4-YEAR PERIOD):			= \$ _____

**ESTIMATED TOTAL SUM BID PRICE
(GROUP A + GROUP B + GROUP C + GROUP D) = \$ _____**

* Bid Price Per Month shall include all costs, monthly, quarterly and annual maintenance charges per SPECIAL PROVISIONS page SP-5, Bid Quotation.

** The rates listed shall be used and applied to the appropriate contract period, if and when applicable.

OFFEROR: _____
(Company Name)

OFFEROR'S QUALIFICATION FORM

The Offeror and his personnel shall meet the Experience and Personnel Qualifications as indicated in SPECIAL PROVISIONS page SP-2 OFFEROR QUALIFICATIONS. Please complete this form as fully and explicitly as possible to facilitate our evaluation of your firm. Use additional sheets and substantiating documents when necessary.

Exact Legal Name of Elevator and Escalator Maintenance Contractor: _____

Elevator Maintenance Service Contractor's C-16 License Number: * _____

E-mail Address: _____

Oahu Facility Service Location: _____

Street Address

City

State

Zip Code

Telephone & Cell Number: _____ Fax Number: _____

Contact Person Name: _____

Phone number of emergency calls during regular working hours: _____

Phone number of emergency calls during after working hours: _____

Representative: _____ Telephone No. _____

Facsimile _____ E-mail address _____

- I. CONTRACTOR EXPERIENCE: * Contractor's number of consecutive years of experience (immediately prior to bid opening date) in the field of Elevator Maintenance Service: _____
- II. MECHANICS EXPERIENCE: * List at least one (1) elevator mechanic on Oahu, who will be assigned to this contract and who has a minimum of five (5) years (immediately prior to the bid opening) and licensed in the field of elevator and escalator maintenance service experience.

Oahu Mechanic Name: * _____

Number of Years of experience: * _____

Number of Years with present Company: * _____

Year when IUEC mechanic status was attained: * _____

*Falsification of personnel qualifications shall constitute a major breach of this contract.

OFFEROR _____
(Company Name)

REFERENCES: Offeror shall list **at least three references** in the State of Hawaii, for whom offeror has or is performing similar Elevator and Escalator Maintenance Services on a regular basis. The State reserves the right to reject an offer submitted by any offeror whose performance on other jobs for this type of service has been proven unsatisfactory.

	<u>Name of Firm</u>	<u>Address</u>	<u>Contact Person</u>	<u>Telephone</u>
1.	_____			
2.	_____			
3.	_____			

Insurance Coverage:

	<u>Carrier</u>	<u>Policy No.</u>	<u>Agent/phone</u>
Commercial General Liability:	_____		
Automobile Liability:	_____		
Worker Compensation:	_____		
Temporary Disability Insurance:	_____		
Prepaid Health Care:	_____		
Unemployment Insurance:	_____		
State of Hawaii Labor No.:	_____		

OFFEROR _____
(Company Name)

**WAGE CERTIFICATE
FOR SERVICE CONTRACTS**
(See Special Provisions)

Subject: IFB No.: IFB-10-02-SA-EMM

Title of IFB: FURNISHING MAINTENANCE AND REPAIR SERVICE OF ELEVATORS AND ESCALATORS AT THE ALOHA STADIUM FOR STADIUM AUTHORITY THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Pursuant to §103-55, Hawaii Revised Statutes (HRS), I hereby certify that if awarded the contract in excess of \$25,000, the services to be performed will be performed under the following conditions:

1. All applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with; and
2. The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work, with the exception of professional, managerial, supervisory, and clerical personnel who are not covered by §103-55, HRS.

I understand that failure to comply with the above conditions during the period of the contract shall result in cancellation of the contract, unless such noncompliance is corrected within a reasonable period as determined by the procurement officer. Payment in the final settlement of the contract or the release of bonds, if applicable, or both shall not be made unless the procurement officer has determined that the noncompliance has been corrected; and

I further understand that all payments required by Federal and State laws to be made by employers for the benefit of their employees are to be paid in addition to the base wage required by §103-55, HRS.

Offeror _____

Signature _____

Title _____

Date _____

WAGE CERTIFICATE

Price Adjustment Due to Wage Increase To State Employees

1. Contract price adjustment shall be considered:
 - a. Only upon request by the Contractor accompanied by proof satisfactory to the State that its employees have been paid comparable wages to State employees; and
 - b. Only if there is a wage increase to public employees performing comparable work; and
 - c. Only for the contract period in which the price adjustment request is submitted (current contract period only).

Example:

Original contract period: March 7, 2003 to March 6, 2004
Extension period: March 7, 2004 to March 6, 2005

The option to extend the original contract is exercised for the period March 7, 2004 to March 6, 2005. On March 1, 2005, the State announces a pay raise retroactive to July 1, 2003 and the Contractor soon thereafter submits a request of modification is issued accompanied by acceptable documentation. A contract modification is issued to reflect a price adjustment for the current period of the contract, March 7, 2004 to March 6, 2005. Note that the price adjustment is not applied retroactively to July 1, 2003 since the condition of this contract allows price adjustment to the current contract period only.

2. Price adjustment based on the actual dollar increase per hour per State employee shall be calculated as follows:

- a. Bid Price/Hr/Officer (A) = (A) for example = \$15.00/hr
- b. Current Hourly Wage Rate (B) = (B) for example = \$11.00/hr
- c. New Hourly Wage Rate paid to State Employees (C) = (C) for example = \$11.50/hr
- d. Hourly Wage Increase to State employees (D) = (D) for example = \$.50/hr
- e. Adjusted Bid Price/Hr/Officer (E) = (A) + (D), or
15.00 + \$.50 = \$15.50/hr

3. In addition to the actual dollar amount of wage increase, Contractor may apply for the percentage (%) fringe benefits required by the Statute. However, the resulting fringe benefit percentage shall only be applicable to the actual dollar amount of increase and the State shall only consider those benefits that are required by contract and are directly affected by the wage increase.

If request includes adjustment for wage related fringe benefits, Contractor must provide support documentation and an itemized percentage breakdown of the fringe benefits being paid.

The State has determined that the applicable fringe benefits for wage related price adjustment shall be limited to: 1) Federal Old Age Benefits, 2) Worker Compensation, 3) Temporary Disability Insurance, and 4) Unemployment Insurance. Based on past experience, it has been determined that the percentage increase be set at 16%. If Contractor is able to document that its percent for fringe is higher than 16%, the State will review and consider Contractor's claim.

The following method of calculation shall be applied for the fringe benefits:

- a. 16% for Allowable Fringe Benefits
- b. $\$ \text{ Adjusted for Allowable Fringe Benefits (F)} = (D) \times (.16) = F \text{ or}$
 $\$.50 \times .16 = \$.08$
- c. $\text{Adjusted Bid Price/Hr/Officer} + \text{Fringe Benefits} = (E) + (F), \text{ or}$
 $\$15.50 + \$.08 =$
 $\$15.58$
4. After the contract modification for the increase is issued by the State, but before payment of an increase is made on the portion of the current contract period already performed, the Contractor shall show proof that its employees were given the retroactive wage increase.

CERTIFICATION OF COMPLIANCE FOR FINAL PAYMENT
(Reference §3-122-112, HAR)

Reference: _____ IFB-10-02-SA-EMM
(Contract Number) (IFB/RFP Number)

_____ affirms it is in
(Company Name)

compliance with all laws, as applicable, governing doing business in the State of Hawaii to include the following:

1. Chapter 383, HRS, Hawaii Employment Security Law – Unemployment Insurance;
2. Chapter 386, HRS, Workers' Compensation Law;
3. Chapter 392, HRS, Temporary Disability Insurance;
4. Chapter 393, HRS, Prepaid Health Care Act; and

maintains a "Certificate of Good Standing" from the Department of Commerce and Consumer Affairs, Business Registration Division.

Moreover, _____
(Company Name)

acknowledges that making a false statement shall cause its suspension and may cause its debarment from future awards of contracts.

Signature: _____

Print Name: _____

Title: _____

Date: _____

**SPECIFICATIONS FOR
MAINTENANCE AND REPAIR SERVICE OF ELEVATORS AND ESCALATORS AT THE
ALOHA STADIUM**

I. SCOPE OF WORK

The Contractor shall furnish all maintenance service of labor, material, parts, tools, equipment, transportation, and supervision necessary for the maintenance, inspections and repairs to the existing two (2) elevators and two (2) escalators located at the Aloha Stadium as listed herein. Allowance is provided for additional compensation as applicable under paragraphs IV, V, and in accordance with this Specification of IFB-10-02-SA-EMM. The State's General Condition, Form AG-008 (4/15/09) and applicable contract form (Appendix F) are included by reference and made a part hereof.

II. DESCRIPTION OF WORK

It is the intention of this contract to provide the specified maintenance inspections, services preventive maintenance, and other repairs as required to maintain the elevators and escalators in a good, safe and operating condition as required and/or recommended by ANSI/ASME A17.1.2.3.

In addition to the regular monthly services, the Stadium Authority (SA) requires the Contractor to provide elevator and escalator standby services to facilitate Special Event operations, to include collegiate and professional sporting games, concerts and other major events as specified by the SA.

Elevator and escalator stand-by services will be at regular standby rate per OF-2 and OF-3 (Group C & D) for one (1) licensed elevator and escalator mechanic for a standard eight (8) hour period.

The work performed by the Contractor shall consist of furnishing all materials, labor, supervision, tools, parts and equipment necessary to provide full maintenance services, including but not limited to, cleaning, inspection, adjustments, tests, parts replacement, and repairs necessary to maintain the elevators and escalators specified in this contract in continuous use at their established capacity and efficiency for their intended purpose. Elevators and escalators shall be maintained in the best operating condition that enables them to match their initial performance ability. All maintenance, adjustments, modifications, and other repairs must be performed as outlined, required and/or recommended by the American Practice for the Inspection of Elevators, Inspector's Manual, ANSI/ASME A17.2., Safety Code for Existing Elevators and Escalators, ANSI/ASME A17.3 and in the latest addition of the American National Standard Code of Elevators and Escalators, ASME A17.1, including all latest revisions and addenda, hereinafter referred to as ANSI/ASME A17.1.2.3. The upgrading of equipment to meet changes in code requirements is not within the scope of this specification.

The elevators and escalators to be serviced and repaired under these specifications are as follows:

1. **South Stand** – Otis Electric (Traction) Freight Elevator, State I.D. #75-048/Machine #374762 (4 service floors)

2. **North Stand** – Otis Hydraulic Freight Elevator, State ID #75-49/Machine #374763 (2 service floors)
3. **East Stand** – Otis 48RA Escalator, State I.D. # 75-148 (1 flight)
4. **West Stand** – Montgomery ES-245 Escalator, State I.D. #94-119 (1 flight)

III. MANNER AND TIME OF CONDUCTING WORK

All work shall be performed by skilled, competent, licensed elevator mechanic(s) possessing the personnel qualifications requirements per SPECIAL PROVISION PAGE [SP-2], OFFEROR QUALIFICATIONS and directly employed and supervised by the Contractor. Elevator and escalator mechanic helpers and/or elevator and escalator mechanic apprentices may be used, provided that they are under the direct supervision of a licensed elevator and escalator mechanic at all times. All maintenance will be completed in a timely manner.

The Contract Administrator (CA) reserves the right to:

- Approve the elevator and escalator mechanic assigned to fulfill the contract.
 - Request replacement of assigned elevator and escalator mechanic for cause.
 - Approve the replacement elevator and escalator mechanic.
- a. All scheduled work will be done during business hours of the State 7:45 a.m. – 4:30 p.m. Monday through Friday excluding State Holiday, with the exception of stand-by services.
 - b. The Contractor shall provide regular and systematic examinations, preventive maintenance service and service calls as needed on each elevator and escalator.
 - c. Preventive maintenance service for elevators shall be performed monthly, quarterly, annual, and annual intervals for traction elevators. Hydraulic elevators shall be service every month. Escalators shall be service monthly in accordance with ANSI /ASME A17.3.
 - Preventive Maintenance service will be performed on a date and time determined by mutual consent of the CA and Contractor.
 - The mechanic shall spend a minimum of four (4) hours on the site to fulfill the requirements of these specifications.
 - A checklist will be utilized for recording preventive maintenance services. (Contractor may add additional items and/or increase the frequency of maintenance inspections and services to ensure that the elevators and escalators are maintained in a good safe, and operating condition.) See APPENDIX A (Traction Elevator), APPENDIX B (Hydraulic Elevator), APPENDIX C (Otis escalator) and APPENDIX D (Montgomery escalator)
 - The elevator and escalator mechanic must document status of all inspection items, initialing “completed” and brief description of “Corrective Actions Taken.”
 - The elevator and escalator mechanic must check in with the CA or designated representative upon arrival of building. Upon completion elevator and escalator

mechanic will sign, date and time the work order and checklist, returning both to the CA or Alternate.

- d. **Emergency:** Stalled elevator with trapped passengers: The Contractor has the responsibility for removal of trapped passengers from stalled elevators. Contractor will acknowledge an emergency call from Aloha Stadium within fifteen (15) minutes and arrive on site as quickly as possible, but not later than one (1) hour after acknowledgement of the call. **The Contractor shall provide this service at no additional cost.**
- e. The Contractor will keep a record of all elevator adjustments, emergencies, preventive maintenance and other repairs. The file or duplicate of this file shall become the property of the Stadium Authority forty-five (45) days before completion or termination of each yearly contract period.
- f. All available Electrical Plans and other operational information, as provided by the elevator manufacture to the Stadium Authority, will be made available to the Contractor. All drawings and other information shall be returned to the Stadium Authority upon cancellation or termination of this contract.
- g. The shut down period of any elevator shall not exceed twenty-four (24) consecutive hours without the consent of Stadium Authority. When an elevator and/or escalator are shut down, a sign will be placed at the opening stating: **"OUT OF SERVICE. DO NOT USE. DOWN FOR MAINTENANCE (Name of Contractor)"**.
- h. Preparation and Forwarding of Reports: All completed reports are to be forwarded to the CA. Incomplete reports will be returned to Contractor for corrections and will be required to resubmit corrected reports within seven (7) business days.
- i. Maintenance or completed records; coordination of work; cleaning; lubrication; testing; adjustments; maintenance; repairing; furnishing and replacements of parts, including spare parts; furnishing of all instruments for testing shall all be performed as outlined, required and/or recommended by ANSI/ASME A17.1.2.3.
- j. Quality and timely performance is the essence of this contract. Monthly-the SA reserves the right to request and review check lists and service logs for assessment of elevator and escalator service.
- k. An estimated forty-eight (48) hours per year is allotted to cover extra work beyond the regular monthly services to include work beyond regular working hours. Rate is per OF-2 (Group B).
- l. An estimated twenty-four (24) hours per year is allotted to cover extra work beyond the eight (8) hour standby services, where services and /or repairs are essential to the elevators and escalators to be in service expeditiously. Rate is per OF-3 (Group D).

IV. EXTENT OF WORK

The work required under this contract will be as described below:

- a. The Contractor will at all time maintain the elevators and escalators in the best operating condition that enables them to match their initial performance ability as originally specified by the equipment manufacturer or most recent upgrade specification including but not limited to: acceleration, retardation contract speed as specified per minute, with or without full load, floor to floor and door opening and closing time.
- b. The Contactor must also regularly and systematically examine, adjust, lubricate as required, and if conditions warrant, repair or replace with genuine manufacturer's parts; machine worm gear, thrust bearings, drive sheave, drive sheave shaft bearings, brake puller, brake coil, brake contact, linings and component parts; motor and motor generator, motor windings, starting element commutator, brushes, brush holders and bearing; controller, selector and dispatching equipment; all relayed solid state components, resistors, condensers, transformers, contacts, leads, dash-pot, timing devices, car and machine room computer devices and components, steel selector tape and mechanical and electrical driving equipment; governor, governor sheave and shaft assembly, bearing contacts and governor jaws, defector or rails, top and bottom limit switches, governor tension and sheave assembly, compensating sheave assembly, counterweight and counterweight guide shoes, including rollers or gibs; hoist-way door interlocks, hoist-way door hangers, bottom door guides and auxiliary door-closing devices, automatic power-operated door operator, car door hanger, car door contact, door protective device, load weighing equipment, car frame and car safety mechanism in the elevator car, operating sensors, pumps and any other parts required for maintaining proper first-class and safe operation. Keep all computers/processors set and adjusted to the current Central Time Zone within ± 5 minutes of actual time. Adjust elevator car guide shoes, gibs or rollers when necessary to insure smooth and quiet operation, and except where roller guides are used, and when applicable, keep the guide rails properly lubricated; examine periodically all safety devices and governors and conduct annual no load test and perform a full load, full speed test of safety mechanism, overhead speed governors car and counterweight buffers within (5) years of the previous test or sooner as required and/or recommended by ANSI/ASME A17.1.2.3. The car balance will be checked and the governor set and if required the governor will be sealed for proper tripping speed. **Testing:** All annual no-load safety test, and 5 year full load – full speed safety test will be scheduled and completed during the month of August each year. All material and labor charges associated with these tests should be included in OF-2.
- c. As applicable, the Contractor shall be responsible for examining, equalizing tension of, and lubricating (as required) all hoisting ropes. The Contractor shall be responsible for shortening and/or renewing all hoisting ropes, safety drum and governor ropes, and other wire ropes whenever necessary to ensure maintenance of an adequate safety factor in accordance with ANSI/ASME A17.1.2.3; repair and replace conductor cables and hoist-way and machine room elevator wiring; check the group dispatching systems and make necessary tests to insure that all circuits and time settings are properly adjusted, and the system performs as designed and installed by the original manufacturer; maintain parts cabinets for the orderly storage of replacement parts in the machine room and preserve manufacturer's engineering wiring diagrams for the term of the contract.
- d. All lubricants used are to be compounded to original manufacturer's specifications and/or industry's accepted equal. The Contractor will keep all elevator equipment

clean and painted including operating equipment and all accessory equipment furnished and installed. Head house room will be cleaned monthly. The Contractor must furnish a self-closing metal can for any rags or cotton waste kept in the control rooms and shall empty same weekly after completing any work in the space.

- e. The Contractor must maintain a supply of replacement parts (Appendix E) required for routine preventive maintenance and a supply of emergency spare parts sufficient for repair of the elevators, within a 50-mile radius of Honolulu, Hawaii. Materials used are to be genuine parts manufactured by the elevator's original manufacture. A list of replacement parts in stock, by part number, shall be furnished to the CA. Contractor may be required to demonstrate his ability to deliver parts.
- f. The Contractor shall be responsible for making all required replacements and repairs; excluding those resulting from negligence or misuse of the equipment by persons other than the Contractor or Contractor's employees, but including those necessitated by ordinary wear and tear.
- g. The following items are not covered by these specifications: The elevator Contractor assumes no responsibility for hoistway enclosure walls, telephone or intercommunication systems except that traveling cable wiring for these systems is included, main line power switches, breakers and feeds to controllers, buried piping and buried conduit, emergency power plants and associated contactors, the car enclosure (including removable panels, door panels, plenum chambers, hung ceilings, light tubes and bulbs, except that car emergency lighting is included, hand rails, mirrors, vinyl tiles and carpets), doors frames and sills, hydraulic cylinders, underground piping and disposal of or clean up of waste oil or soil contamination caused by leaks in the hydraulic cylinder or underground piping.
- h. All invoices, worksheets and any other correspondence in reference to this contract must always show the contract number and, when applicable, the purchase order number.

V. PARTS AND MATERIALS

The Contractor shall restore to serviceability all parts that are found to cost less to restore than to replace with a new part. Where parts are worn out and cannot be restored, the Contractor shall replace these parts with new parts. Only new, standard parts manufactured by the maker or parts of equal quality shall be used. SA reserves the right to request the parts shipped by air freight at the expense of the State.

VI. STATE'S RIGHTS OF INSPECTION AND TEST

The State reserves the right to make such inspections and tests as and when deemed advisable, to ascertain that the requirements of these specifications are being fulfilled. (The State may request such inspections and tests be performed by an elevator company or consulting firm-other than the Contractor). Should it be found that the standards herein specified are not being satisfactorily maintained, the State can immediately demand (confirmed in writing) that the Contractor place the elevators in conditions, to meet these requirements. If the Contractor fails to comply with such demands within thirty (30) calendar days of the date of written confirmation of such demand, the State may, by written notice to the Contractor, terminate the Contractor's right to process further with the

work, take over the work and prosecute it to completion, by contract or otherwise, and the defaulting Contractor and his sureties shall be liable to the State for damages to include liquidated damages (SPECIAL PROVISIONS, SP-11) and subject to the penalty specified in the Termination Section of the General Provisions.

VII. INSURANCE RESPONSIBILITY & LIABILITY

The Contractor's interest in all property herein described, if any, or any personal liability that may arise from this agreement to whatever extent will be covered by Contractor's applicable insurance to the extent required. Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State of Hawaii or any of its agencies responsible for loss or damage to personal or other property; or to hold Contractor harmless from any such occurrences. Contractor shall possess Worker's Compensation Insurance in the amount required by law and in SPECIAL PROVISIONS (SP-9).

VIII. ADDITIONAL WORK NOT COVERED IN THE SERVICE SPECIFICATIONS

Modifications of elevator and escalator equipment, which are not covered by the maintenance contract, may be authorized and accomplished by the Contractor only upon the issuance of a purchase order by the SA. The Contractor shall provide CA with price quotation estimate of all labor, material and equipment charges for approval. No additional work will start without SA approval.

Labor charges, shall be based on the appropriate standard hourly labor rate listed on Offer Form Page OF-2.

No guarantee to require the exact number of hours listed on these appropriate Offer Form pages is intended or implied. The State reserves the right to require additional or lesser hours at the standard labor rates quoted in this solicitation. In the event the estimated requirements do not materialize in the exact number of labor hours listed herein, such failure shall not constitute grounds for equitable adjustment under this contract.

The State shall have the option to accept the Contractor's solicitation or obtain competitive bids.

SPECIAL PROVISIONS

TERMS AND ACROYNYS USED HEREIN

Procurement Officer	=	The contracting officer for the Stadium Authority
CA	=	Contracting Administrator
SA	=	Stadium Authority
SPO	=	State Procurement Office of the State of Hawaii
Bidder or Offeror	=	Any individual, partnership, firm, corporation, join venture, or other entity submitting directly or through a duly authorized representative or agent a bid for the good, service, or construction contemplated
ANSI	=	American National Standards Institute
ASME	=	American Society Mechanical Engineers
LRRO	=	Lowest Responsive Responsible Offeror
HRS	=	Hawaii Revised Statutes
HAR	=	Hawaii Administrative Rules
IFB	=	Invitation for Bids
GET	=	General Excise Tax

AUTHORITY

This IFB issued under the provisions of the State Procurement Code (HRS Chapter 103D) and the State Procurement Office's applicable Directives, Circulars and administrative rules. All prospective Offerors are charged with the presumptive knowledge of all applicable legal authorities. Submission of a valid executed offer by any prospective Offeror shall constitute admission of such knowledge on the part of such prospective Offeror.

Any agreement arising out of this offer is subject to the approval of the State Department of the Attorney General, as to form, and to all further approvals as required by statute, administrative rule, order, or other directive.

PROCUREMENT OFFICER

The Procurement Officer is responsible for administering and overseeing the Contract, including monitoring and assessing contractor performance. The Procurement Officer for the Contract is:

Scott L. Chan
Stadium Manager
99-500 Salt Lake Boulevard, Aiea, Hawaii 96701
P.O. Box 30666, Honolulu, Hawaii 96820-0666

Telephone: 808-483-2750
Facsimile: 808-483-2823

ISSUING OFFICER

The individuals listed below are the **sole** point of contact from the date of release of this IFB until the selection of the Offeror to which a Contract will be awarded:

Primary Contact

Shelly Shoji
Building Manager
99-500 Salt Lake Boulevard, Aiea, Hawaii 96701
P.O. Box 30666, Honolulu, Hawaii 96820-0666

Telephone: 808-483-2764
Facsimile: 808-483-2823

Alternate Contact*

Ming Tan
Stadium Engineer
99-500 Salt Lake Boulevard, Aiea, Hawaii 96701
P.O. Box 30666, Honolulu, Hawaii 96820-0666

Telephone: 808-483-2762
Facsimile: 808-483-2823

*If the Primary Contact is unavailable or absent, contact the Alternate Contact.

CONTRACT ADMINISTRATOR

For the purpose of this contract, the Contract Administrator is the Building Manager, Shelly Shoji, telephone 808-483-2764.

TERM OF CONTRACT

Contractor shall enter into a contract for furnishing maintenance and repair service of elevators and escalators (including Standby Service) at Aloha Stadium for a period of twelve (12) months commencing from the official commencement date on the Notice to Proceed but no earlier than November 1, 2009. Unless terminated, and subject to availability of funds, the contract may be extended by the State for not more than three (3) additional twelve (12) month periods, or parts thereof, without the necessity of re-bidding upon mutual agreement in writing prior to expiration. The appropriate Bid Price Per Month and Standard Hourly Rate entered on the Offer Form page OF-2 shall be applied the appropriate extended period.

If the option to extend is mutually agreed upon, Contractor shall be required to execute a supplement to the contract.

The Contractor or the State may terminate the extended contract at any time upon ninety (90) days prior written notice.

OFFEROR QUALIFICATION

Experience and Qualifications. The Offeror shall have a minimum of five (5) years of experience (immediately prior to the bid opening date), and possess a valid license in the field of elevator and escalator equipment maintenance service as listed on the Offeror's Qualification Form page, OF-5.

Service Facility. The Offeror shall have a service facility on the Island of Oahu from where they conduct business and will be accessible to telephone calls, complaints or emergency

service requests. Answering machines do not qualify and are in default of these requirements. Service facility shall include warehousing of spare parts (Appendix E) required for the maintenance and repair of equipment listed in this contract; and from where the journeymen and apprentices are dispatched to perform the work specified in this contract. Service facility information shall be furnished on the appropriate Qualification Form page.

License. The Offeror shall possess at the time of bid submittal, a valid State of Hawaii contractor C-16 license and the required business and tax licenses in order to conduct business in the State of Hawaii. Both the contractor's license and tax license must be kept in force during the duration of this contract and for any extensions that may be agreed upon. The Contractor shall list his license number on the appropriate Qualification Form page.

References. The Offeror shall list on Offer Form page OF-6, at least three references in the State of Hawaii other than the State of Hawaii government, for whom he/she has performed maintenance service of elevator and escalator equipment on a regular basis, that is similar in nature and volume to services specified herein, and who can attest to the reliability of the Offeror's service and personnel. The State reserves the right to contact the references provided and to reject any bid submitted by an Offeror whose performance on other service contracts similar to this one has been proved unsatisfactory.

Personnel Qualifications. The Offeror shall have at least one (1) Licensed mechanic assigned to this contract who is a regular employee of the offeror with a minimum of five (5) years of **elevator and escalator maintenance service experience** at the time of bid opening. Mechanic(s) shall meet the minimum requirements for elevator mechanics of the International Union of Elevator Constructors, Local 126. **PROOF OF MEETING THIS REQUIREMENT MAY BE REQUIRED.** Offeror shall have sufficient personnel and equipment necessary to perform and complete the work specified herein within the time period indicated.

Mechanic information shall be furnished on appropriate Qualification Form page.

Qualification Form. Offer must submit all Qualification Form pages with their bid submittal. If requested by the State, the Offeror shall have five (5) business days to provide additional information/documentation. Failure to do so may result in disqualification of bidder.

RESPONSIBILITY OF OFFERORS

Offeror is advised that if awarded a contract under this solicitation, Offeror shall, upon award of the contract, furnish proof of compliance with the requirements of §103D-310(c), HRS:

1. Chapter 237, tax clearance;
2. Chapter 383, unemployment insurance;
3. Chapter 386, workers' compensation;
4. Chapter 392, temporary disability insurance;
5. Chapter 393, prepaid health care; and
6. Chapter 103D-310(c), Certificate of Good Standing (COGS) for entities doing business in the State.

Refer to the Award of Contract provision herein for instructions on furnishing the documents that are acceptable to the State as proof of compliance with the above-mentioned requirements.

CERTIFICATION OF INDEPENDENT COST DETERMINATION

By submission of a bid in response to this IFB, bidder certifies as follows:

1. The costs in this IFB have been arrived at independently, without consultation, communication, or agreement with any other bidder, as to any matter relating to such costs for the purpose of restricting competition.
2. Unless otherwise required by law, the cost which have been quoted in this IFB have not been knowingly disclosed by the bidder prior to award, directly or indirectly, to any other bidder or competitor prior to the award of the contract.
3. No other attempt has been made or will be made by the bidder to indicate any other person or firm to submit or not to submit for the purpose of restricting competition.

PRE-BID WALK THROUGH

It is HIGHLY RECOMMENDED that all prospective bidders attend the pre-bid walk through held **at Aloha Stadium at 9:00 a.m. (HST) Wednesday, September 16, 2009**, to be held in the Main Conference Room of Aloha Stadium, 99-500 Salt Lake Boulevard, Aiea, Hawaii 96701. SA will provide prospective offerors an opportunity to inspect the elevators and escalators at the Stadium to thoroughly familiarize themselves with the existing conditions and the amount and kind of work to be performed. Submission of bid shall be evidence that the offeror has familiarized himself with the elevators and escalators; shall comply with the specifications if awarded the contract.

All changes and/or clarifications to this solicitation shall be done in the form of written addendum. Offerors shall inspect the location to thoroughly familiarize themselves with existing conditions, rules and regulations, and the extent and nature of the work to be performed. Submission of an offer shall be evidence that the Offeror understands the scope of the project and shall comply with specifications herein, if awarded the contract. No additional compensation, subsequent to bid opening, shall be allowed by reason of any misunderstanding or error regarding site conditions or work to be preformed.

WRITTEN INQUIRIES

All inquiries regarding any item in this IFB shall be in writing and received by the CA by **10:00 a.m. (HST) Friday, September 18, 2009**. Only those written inquiries received by the deadline shall be responded to. Addenda, if any, shall, be issued to provide offerors with a list of inquiries and responses. The State's responses shall not be construed to make any changes to the IFB unless otherwise revised by an addendum.

BID PREPARATION

Offer Form, Page OF-1. Offeror is requested to submit its offer using Offeror's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable; and to indicate exact legal name in the appropriate space on Offer Form, page OF-1. Failure to do so may delay proper execution of the contract.

The authorized signature on the first page of the Offer Form shall be an original signature in ink. If unsigned or the affixed signature is a facsimile or a photocopy, the offer shall be automatically rejected unless accompanied by other material, containing an original signature, indicating the Offeror's intent to be bound.

Bid Quotation. Bid price shall be all inclusive, and include, but not limited to, all applicable taxes and expenses incurred to provide services specified herein.

Tax Liability. Work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS, and vendors are advised that they are liable for the Hawaii General Excise Tax (GET) at the current rate of 4.5%. If, however, an Offeror is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, Offeror shall state its tax exempt status and cite the HRS chapter or section allowing the exemption.

Taxpayer Preference. For evaluation purposes, pursuant to §103D-1008, HRS, the Bidder's tax-exempt price offer submitted in response to an IFB shall be increased by the applicable retail rate of general excise tax and the applicable use tax. Under no circumstances shall the dollar amount of the award include the aforementioned adjustment.

Hawaii General Excise Tax License. In accordance with Section 3.1A of the General Terms and Conditions, Offeror shall submit his current Hawaii General Excise Tax I.D. number in the space provided on Offer Form, Page OF-1, thereby attesting that he is doing business in the State and that he will pay such taxes on all sales made to the State.

Insurance. Bidder shall provide insurance information as requested on the appropriate Offer Form page. Further, bidder shall provide insurance coverage for contents in accordance with the attached Specifications.

Wage Certificate

Offeror shall complete and submit the attached wage certificate by which offeror certifies that service required will be performed pursuant to §103-55, HRS.

Offerors are advised that §103-55, HRS, provides that the services to be performed shall be performed by employees paid at wages not less than wages paid to public officers and employees for similar work. Offeror is advised that although item 2 of the Wage Certificate is not applicable to this solicitation since there are no public sector employees performing work similar to the requirements herein, Item 1 of the certificate applies and therefore submission of the Wage Certificate is required.

Confidential Information. Offerors shall designate those portions of their offer that contain trade secrets or other proprietary data that are to remain confidential subject to §3-122-21(a) (7) and §3-122-30(c) and (d), HAR. Material designated as confidential shall be readily separable from the offer in order to facilitate public inspection of the non-confidential portion of the offer. Prices, makes and models, or catalogue number of items offered, deliveries and terms of payment, shall be publicly available at the time of opening regardless of any designation to the contrary.

DOWNLOADED SOLICITATION

Offeror is advised that if interested in responding to this solicitation, Offeror may chose to submit its offer on a downloaded document provided Offeror registers its company by fax or e-mail for this specific solicitation. If Offeror does not register its company, Offeror will not receive addenda, if any, and its offer may be rejected and not considered for award.

SUBMISSION OF OFFER

Offers shall be received at the Stadium Authority, Office of the Stadium Manager, 99-500 Salt Lake Boulevard, Aiea, Hawaii 96701 no later than the date and time stated on the cover page of the IFB. Timely receipt of offers shall be evidenced by the date and time registered by the Stadium Authority time stamp clock. Offers received after the deadline shall be returned unopened.

If the Offeror chooses to deliver its offer by United States Postal Service (USPS), please be aware that the USPS does not deliver directly to the Aloha Stadium street address. **USPS must be addressed to P.O. Box 30666, Honolulu, Hawaii 96820-0666.** This may cause a delay in receipt by Stadium Authority and the offer may reach the Stadium Authority after the deadline, resulting in automatic rejection.

AWARD OF CONTRACT

Method of Award. Award, if made, shall be to the Lowest, Responsive, Responsible Offeror (LRRO) submitting the lowest offer.

Responsibility of Lowest Responsive Responsible Bidder. Reference §103D-310(c), HRS. If compliance documents have not been submitted to the Stadium Authority prior to award, the lowest responsive and responsible offeror shall produce documents to the CA to demonstrate compliance with this section.

HRS Chapter 237 tax clearance requirement for award. Instructions are as follows:

Pursuant to §103-D-328, HRS, LRRO shall be required to submit a tax clearance certificate issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate shall have an original green certified copy stamp and shall be valid for six (6) months from the most recent approval stamp date on the certificate. It must be valid on the date it is received by the Stadium Authority.

The tax clearance certificate shall be obtained on the State of Hawaii, DOTAX **TAX CLEARANCE APPLICATION** Form A-6 (Rev. 2003) which is available at the DOTAX and IRS offices in the State of Hawaii or the DOTAX website, and by mail or fax:

DOTAX Website (Forms & Information): http://www.hawaii.gov/tax/a1_1alphalist.htm

DOTAX Forms by Fax/Mail: 808-587-7572
1-800-222-7572

Completed tax clearance applications may be mailed, faxed or submitted in person to the Department of Taxation, Taxpayer Services Branch, to the address listed on the application. Facsimile numbers are:

DOTAX: 808-587-1488
IRS: 808-539-1573

The application for the clearance is the responsibility of the Offeror and must be submitted directly to the DOTAX or IRS and not to the Stadium Authority. However, the tax clearance certificate shall be submitted to the Stadium Authority.

HRS Chapters 383 (Unemployment Insurance, 386 (Workers' Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) requirements for award.

Instructions are as follows:

Pursuant to §103D-310(c), HRS, the lowest responsive Offeror shall be required to submit a certificate of compliance issued by the Hawaii State Department of Labor and Industrial Relations (DLIR). The certificate is valid for six (6) months from the date of issue and must be valid on the date it is received by the Stadium Authority. A photocopy of the certificate is acceptable to the Stadium Authority.

The certificate of compliance shall be obtained on the State of Hawaii, DLIR *APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR*, Form LIR#27 which is available at <http://hawaii.gov/labor/labor/all-forms/?searchterm=LIR#27> or at the neighbor island DLIR District Offices. The DLIR will return the form to the Offeror who in turn shall submit it to the Stadium Authority.

The application for the certificate is the responsibility of the Offeror, and must be submitted directly to the DLIR and not to the Stadium Authority. However, the certificate shall be submitted to the Stadium Authority.

Compliance with §103D-310(c), HRS, for an entity doing business in the State. The lowest responsive Offeror shall be required to submit a *CERTIFICATE OF GOOD STANDING* (Certificate) issued by the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division (BREG). The Certificate is valid for six months from date of issue and must be valid on the date it is received by the Stadium Authority. A photocopy of the Certificate is acceptable to the Stadium Authority.

To obtain the Certificate, the Offeror must first be registered with the BREG. A sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the Certificate.

On-line business registration and the Certificate are available at www.BusinessRegistrations.com. To register or to obtain the Certificate by phone, call 808-586-2727 (Monday through Friday, 7:45 a.m. to 4:30 p.m., HST). Offerors are advised that there are costs associated with registering and obtaining the Certificate.

Final Payment Requirements. Contractor is required to submit a tax clearance certificate of payment on the contract. A tax clearance certificate, not over two months old, with an original green certified copy stamp, must accompany the invoice for payment on the contract. In addition to the tax clearance certificate, an original "Certification of Compliance for Final Payment" (SPO Form-22), attached, will be required for final payment. A copy of the form is

also available at www.spo.hawaii.gov. Select "Forms for Vendors/Contractors" from the Procurement of Goods, Services, and Construction – Chapter 103D, HRS, menu.

Hawaii Compliance Express. Alternately, instead of separately applying for these certificates at the various state agencies, vendors may choose to use the Hawaii Compliance Express (HCE), which allows businesses to register online through a simple wizard interface at <http://vendors.ehawaii.gov> to acquire a "Certificate of Vendor Compliance." The HCE provides current compliance status as of the issuance date. The "Certificate of Vendor Compliance" indicating that vendor's status is compliant with the requirements of §103D-310(c), HRS, shall be accepted for contracting and final payment purposes. Vendors that elect to use the new HCE services will be required to pay an annual fee of \$12.00 to the Hawaii Information Consortium, LLC (HIC). Vendors choosing not to participate in the HCE program will be required to provide the paper certificates as instructed in the sections previous to this one.

Timely Submission of all Certificates. The above certificates should be applied for and submitted to the Stadium Authority no later than seven (7) calendar days upon award. If a valid certificate is not submitted within the specified deadline for award, an Offeror otherwise responsive and responsible may not receive the award.

CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS

It has been determined that funds for this contract have been appropriated by a legislative body.

Therefore, Offeror, if awarded a contract in response to this solicitation, agrees to comply with §11-205.5, HRS, which states that campaign contributions are prohibited from a State and county government contractor during the term of the contract if the contractor is paid with funds appropriated by a legislative body.

CONTRACT EXECUTION

The State shall forward a formal contract to the successful Offeror for execution. The contract shall be signed by the successful Offeror and returned within ten (10) days after receipt by the Offeror or as may be otherwise allowed by the Procurement Officer. **NO PERFORMANCE OR PAYMENT BONDS ARE REQUIRED FOR THIS CONTRACT.**

If the option(s) to extend for the twelve-month period is mutually agreed upon, Contractor shall be required to execute a supplement to the contract.

The Contractor or the State may terminate the extended contract period at any time upon three (3) months prior written notice.

NOTICE TO PROCEED

Work will commence on the official commencement date specified on the Notice to Proceed.

No work is to be undertaken by the Contractor prior to the official commencement date on the Notice to Proceed. The State is not liable for any work, contract, costs, expenses, loss of profits, or any damage whatsoever incurred by the Contractor prior to the work start date.

LIABILITY INSURANCE

The Contractor shall maintain in full force and effect during the life of this contract, liability and property damage insurance to protect the Contractor and his subcontractors, if any, from claims for damages for personal injury, accidental death and property damage which may arise from operations under this contract, whether such operations be by himself or by a subcontractor or anyone directly or indirectly employed by either of them. If any subcontractor is involved in the performance of the contract, the insurance policy or policies shall name the subcontractor as additional insured.

As an alternative to the Contractor providing insurance to cover operations performed by a subcontractor and naming the subcontractor as additional insured, Contractor may require subcontractor to provide its own insurance which meets the requirements herein. It is understood that a subcontractor's insurance policy or policies are in addition to the Contractor's own policy or policies.

The following minimum insurance coverage(s) and limit(s) shall be provided by the Contractor, including its subcontractor(s) where appropriate.

<u>Coverage</u>	<u>Limits</u>
Commercial General Liability (occurrence form)	\$1,000,000 per occurrence for bodily injury and property damage and \$2,000,000 in aggregate
Basic Motor Vehicle Insurance And Liability Policies	\$1,000,000 per accident

Each insurance policy required by this contract, including a subcontractor's policy, shall contain the following clauses:

1. "This insurance shall not be canceled, limited in scope of coverage or non-renewed until after 30 days written notice has been given to the State of Hawaii, Department of Accounting and General Service, Stadium Authority, 99-500 Salt Lake Boulevard, Aiea, Hawaii 96701, P.O. Box 30666, Honolulu, Hawaii 96820-0666."
2. "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."
3. "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."

The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the contract, including supplemental agreements.

Upon Contractor's execution of the contract, the Contractor agrees to deposit with the State of Hawaii certificate(s) of insurance necessary to satisfy the State that the insurance provisions of this contract have been complied with and to keep such insurance in effect and the certificate(s) therefore on deposit with the State during the entire term of this contract, including those of its subcontractor(s), where appropriate. Upon request by the State, Contractor shall be responsible for furnishing a copy of the policy or policies.

Failure of the Contractor to provide and keep in force such insurance shall be regarded as material default under this contract, entitling the State to exercise any or all of the remedies provided in this contract for a default of the Contractor.

The procuring of such required insurance shall not be construed to limit Contractor's liability hereunder or to fulfill the indemnification provisions and requirements of this contract. Notwithstanding said policy or policies of insurance, Contractor shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

WARRANTY

The Contractor shall submit a written warranty for replacement of any integral part of equipment listed herein, such as escalator drive, machines motors, controllers and switches, etc., as guaranteed by the factory to the CA.

The warranty shall consist of the period covered from the date of installation, make, model number, serial number, and location of equipment (name of building, floor number, etc.) and shall be provided to the CA.

SUBCONTRACTORS

The Contractor shall not delegate any duties listed in this IFB to any subcontractor other than those listed on the appropriate Offer Form pages and approval is given by the SA. The State reserves the right to approve or disapprove all subcontractors and shall require the primary contractor to replace any subcontractors found to be unacceptable. The primary contractor will be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract, and shall be responsible for all services whether or not the primary contractor performs them.

INVOICING

Contractor shall submit original and three copies of the invoice to the following address:

ALOHA STADIUM – FISCAL BRANCH
P. O. BOX 30666
HONOLULU, HI 96820-0666

Invoice shall reference both the contract number and the IFB number.

Payment shall be made to the Contractor at the monthly contracted price after certified and approved by the CA that the Contractor has satisfactorily performed the required services each month.

For extra work approved by the CA, a separate detailed invoice is required. Invoices shall contain a description of the work done, the amount, and the purchase order number authorizing the work.

A tax clearance certificate, not over two months old, with an original green certified copy stamp, must accompany the invoice for final payment on the contract.

SERVICE AREAS

The Contractor shall perform the service at Aloha Stadium where the elevators and escalators are located.

PAYMENT

§103-10, HRS, provides that the State shall have thirty (30) calendar days after receipt of invoice or satisfactory completion of contract to make payment. For this reason, the State will reject any bid submitted with a condition requiring payment within a shorter period. Further, the State will reject any bid submitted with a condition requiring interest payments greater than that allowed by §103-10, HRS, as amended.

The State will not recognize any requirement established by the Contractor and communicated to the State after award of the contract, which requires payment within a shorter period or interest payment not in conformance with statute.

REMOVAL OF CONTRACTOR'S EMPLOYEES

Contractor agrees to remove any of its employees from services rendered and to be rendered to the State, upon request in writing by the CA.

LIQUIDATED DAMAGES

Refer to the General Conditions. Liquidated damages are fixed at the sum of TWO HUNDRED DOLLARS (\$200.00) per each and every calendar day per location per violation the Contractor fails to perform in whole or in part any of his obligations specified herein. Liquidated damages, if assessed, may be deducted from any payments due or to become due to the Contractor.

RIGHTS AND REMEDIES FOR DEFAULT

In the event the Contractor fails, refuses, or neglects to perform the services in accordance with the requirements of these Special Provisions, the Specifications, and General Conditions herein, in addition to any other recourse allowed by law, the State reserves the right to purchase in the open market, a corresponding quantity of the services specified herein and to deduct from any moneys due or that may thereafter become due the Contractor, the difference between the price named in the contract and the actual cost thereof to the State. In case any money due the Contractor is insufficient for said purpose, the Contractor shall pay the difference upon demand by the State. The State may also utilize all other remedies provided by law.

PROTEST

A protest shall be submitted in writing within five (5) working days after the posting of the award as listed below; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers.

The notice of award letter(s), if any, resulting from this solicitation shall be posted on the Procurement Reporting System, which is available on the SPO website: <http://www.hawaii.gov/spo2/source/>.

Any protest pursuant to §103D-701, HRS, and §3-126-3, HAR, shall be submitted in writing to the Procurement Officer, Stadium Authority, P. O. Box 30666, Honolulu, Hawaii, 96820-0666.

ALOHA STADIUM
SOUTH STAND – TRACTION ELEVATOR MAINTENANCE CHECKLIST

Date Service Performed: _____ Date of Last Service: _____

Name of Elevator Mechanic: _____

MONTHLY MAINTENANCE CHECKLIST
Page 1 of 2

<u>Car Operation</u>	<u>Comments</u>
Ride Car: check and correct the following	
Acceleration	
Deceleration	
Car Doors	
Hoistway Doors	
Leveling Accuracy	
<u>Car</u>	
Replace cracked or worn buttons	
Replace burnt out bulbs	
Repair/replace malfunctioning buttons and switches	
Clean car top	
Lubricate pivot points and bearings	
Tighten or replace door gives as necessary	
Lubricate moving parts	
Adjust safety edges and light ray	
<u>Car Door and Operator</u>	
Tighten loose screws and bolts	
Replace worn pins and bearings	
Lubricate moving parts	
Adjust safety edges and light ray	
Adjust light ray	
<u>Wire Ropes and Fastenings</u>	
Clean, examine, and lubricate	
Report any unsafe conditions to Contract Administrator	
Adjust hoist and compensation ropes for equal tension	

**ALOHA STADIUM
SOUTH STAND – TRACTION ELEVATOR MAINTENANCE CHECKLIST**

Date Service Performed: _____ Date of Last Service: _____

Name of Elevator Mechanic: _____

MONTHLY MAINTENANCE CHECKLIST

Page 2 of 2

<u>Bi-Parting Doors and Gates</u>		<u>Comments</u>
Clean, lubricate and ensure proper operation of checks, Chains, gears, motors, and linkages		
Clean, inspect, and adjust all gate and door contacts		
Examine retiring cam, tighten loose bolts, replace worn pins, adjust and lubricate		
Clean and lubricate gate and door guide rails		
<u>Motor and MG Set or Solid State Motor Drive</u>		
Inspect machine, sheaves, worn and gear brakes, and other components		
Wipe off dust and clean up oil spills		
Replace worn or damaged brushes		
Check commutator for wear, follow manufacturer's guide for proper care and maintenance		
Check for unusual noises and/or vibrations, eliminate cause		
<u>Selector</u>		
Check for proper operations		
Clean, lubricate and adjust		
Make certain selector tape and sheaves properly lubricated		
Clean up excess oil from selector and drip pans		
<u>Pit and Pit Equipment</u>		
Clean and examine		
Lubricate pit equipment to specifications		
Check governor, tail sheave, and comp sheaves for proper clearances. Correct deficiencies		
<u>Miscellaneous</u>		
Clean machine room floor		
Check floor indicator panels, replace burnt out bulbs		
Examine hall button stations, replace cracked or worn buttons		
Check hall lanterns for proper operation, replace burnt out gang coils and lamps		
Check operation of inspection and access key switches for proper operation. Adjust and repair as necessary		

**ALOHA STADIUM
SOUTH STAND – TRACTION ELEVATOR MAINTENANCE CHECKLIST**

QUARTERLY MAINTENANCE CHECKLIST

Page 1 of 1

Quarterly maintenance checklist is to be completed in addition to monthly maintenance requirements.

Date Service Performed: _____ Date of Last Service: _____

Name of Elevator Mechanic: _____

<u>Car</u>	<u>Comments</u>
Check alarm bell and communication system	
Clean light fixture	
Clean, check, adjust, and lubricate care shoes and/or roller guide	
Ensure emergency switches operation properly	
<u>Counterweight</u>	
Clean, examine and adjust roller guides	
<u>Motors and Generators</u>	
Clean all commutators, polish all brush stems	
Renew or reseal brushes to specifications	
Clean armatures with blower or vacuum	
Examine motor and MG set connections. Tighten to specifications	
Check oil in bearings. Add or change oil to meet specifications	
Clean brush rigging and housing	

**ALOHA STADIUM
SOUTH STAND – TRACTION ELEVATOR MAINTENANCE CHECKLIST**

SEMI-ANNUAL MAINTENANCE CHECKLIST

Page 1 of 1

Semi-annual maintenance checklist is to be performed in addition to quarterly maintenance requirement.

Date Service Performed: _____ Date of Last Service: _____

Name of Elevator Mechanic: _____

<u>Door Operator</u>	<u>Comments</u>
Check and adjust fastenings, checks, interlocks, etc.	
Check and adjust inertia of doors	
Change gear case oil as specified	
<u>Selector</u>	
Check and adjust selector for proper operation	
Check gears and chains for proper wear. Lubricate to specifications	
<u>Car</u>	
Check stile channels for bends or cracks, also car frame, cams and supports; correct deficiencies	
Check gate or door upthrust, still grooves, bottom guides, etc.	
Check selector tape hitches and broken tape switch	
<u>Controllers</u>	
Clean with blower	
Check and adjust switches, relays, timers, etc.	
Check all condensers, resistance tubes and grids	
Check oil in overhead relays	
Check settings and operation of overloads	
Clean and check fuses and holders	
Check all controller connections	
<u>Emergency Lights</u>	
Charge lights to manufacturer's specifications	
Record date batteries changed on emergency light fixture	
Clean bulb and glass	
Ensure light and bell operating properly	
<u>Miscellaneous</u>	
Clean car grill and stile channels	
Test and adjust dispatching, scheduling, and emergency service features in accordance with manufacturer's specifications.	
Demonstrate to Contract Administrator that the system is functioning properly	

**ALOHA STADIUM
SOUTH STAND – TRACTION ELEVATOR MAINTENANCE CHECKLIST**

ANNUAL MAINTENANCE CHECKLIST
Page 1 of 1

Semi-annual maintenance checklist is to be performed in addition to quarterly maintenance requirement.

Date Service Performed: _____ Date of Last Service: _____

Name of Elevator Mechanic: _____

<u>Load Weighting Switches</u>		<u>Comments</u>
Check and adjust to manufacturer's specifications		
<u>Hoistway</u>		
Check, clean, and adjust guide rails, cams, fastenings and counterweights		
Check and adjust limit, landing and slowdown switches		
Lubricate pins and rollers		
Clean sills		
<u>Guide Shoes and Roller Guides</u>		
Lubricate guide shoe stems and adjust if necessary		
Lubricate wheel bearing sparingly		
<u>Sheaves</u>		
Tighten sheaves on shaft to specifications		
Sound spokes and rim with hammer for cracks		
Ensure sheaves are properly lubricated		
<u>Hall</u>		
Clean and check hall button contacts, springs, wiring, etc.		
<u>Traveling Cable</u>		
Check wear, insulation, hanging and junction box connections		
<u>Hoistway Doors</u>		
Check and adjust to proper clearances		
Check bottom gibs, struts, sill headers and fastenings		
Clean and adjust door contacts		
Examine relating cable for wear. Replace if necessary		
Clean, adjust, and lubricate tracks, hangars, upthrusts, etc.		
<u>Miscellaneous</u>		
Clean exterior of the machinery		
Treat the motor windings and controller coils with factory recommended insulating compound		
Check and lubricate ball and roller bearings to manufacturer's recommendation		
All annual no-load safety tests, and 5 year full load-full speed safety tests		

**ALOHA STADIUM
MONTHLY HYDRAULIC ELEVATOR MAINTENANCE CHECKLIST
NORTH STAND
Page 1 of 3**

Date Service Performed: _____ Date of Last Service: _____

Name of Elevator Mechanic _____

<u>Car Operation</u>	<u>Comments</u>
Ride car to detect, repair or correct deficiencies with:	
Car doors	
Hoistway doors	
Machine brakes	
Acceleration	
Deceleration	
Leveling	
Alarm bell	
Communication system	
<u>Car</u>	
Examine and replace worn, cracked, loose, or malfunctioning buttons	
Repair malfunctioning buttons and switches	
Replace burnt out position indicator and car station panel	
Clean the car top	
Lubricate pivot points and change worn bearings	
Check stile channels for bends and/or cracks	
Check car frame, cams and supports	
Check gate or door upthrust, sill grooves, bottom guides, etc.	
<u>Car Door Operator</u>	
Examine and clean	
Tighten loose screws and bolts	
Replace worn pins and bearings	
Tighten door gibs, replace if necessary	
Lubricate moving parts	
Check and adjust safety edges and light ray	
Check and adjust fastenings, checks, interlocks, etc.	
Check and adjust inertia of doors	
Check oil gear case, change if necessary	

**ALOHA STADIUM
MONTHLY HYDRAULIC ELEVATOR MAINTENANCE CHECKLIST
NORTH STAND
Page 2 of 3**

<u>Motor and Pump Unit</u>	<u>Comments</u>
Inspect motor	
Inspect pump	
Inspect oil lines	
Inspect valves	
Inspect tank	
Inspect controls	
Inspect plunger	
Inspect packing	
Repair cause of leaks above ground	
Clean motor, pump, tank, oil lines, valves and controls	
<u>Controller</u>	
Clean with blower	
Check alignment of switches, relays, timers, etc. Clean and as necessary	
Observe controller for proper operation of relays, contacts, sequence of operations, timing, etc.	
Check all condensers, resistance tubes and grids	
Check oil in overload relays	
Check settings and operation of overloads	
Clean pitted and/or oxidized contacts, replace if necessary	
Replace coils or shunts if insulation brittle	
Clean and check fuse holders and fuses for overheating and take necessary action	
Check all controller connections	
<u>Emergency Lights</u>	
Change battery per manufacturer's recommendations	
Record date battery changed on light fixture	
Check light and bell for proper operation	
<u>Hoistways</u>	
Check limit, landing and slowdown switches	
Clean sills	

Date of Service _____

**ALOHA STADIUM
MONTHLY HYDRAULIC ELEVATOR MAINTENANCE CHECKLIST
NORTH STAND
Page 3 of 3**

<u>Hoistway Doors</u>	<u>Comments</u>
Check and adjust for proper clearances	
Check bottom gives, struts, sill, headers and fastenings	
Clean and adjust door contacts	
Check relating chain for wear. Replace is necessary	
Clean, adjust, and lubricate tracks, hangars, upthrusts, etc.	
<u>Hall</u>	
Clean and check hall button contacts, settings, wiring, etc.	
<u>Traveling Cable</u>	
Check wear, insulation, hanging and junction box connections	
<u>Miscellaneous</u>	
Clean pit	
Remove litter, dust, oil, etc. from machine room floor	
Check integrity counterweight spring buffer; add oil as required	
Check packing glands of valves and cylinder. If necessary, tighten to prevent loss of fluid	
Service guide rail lubricators	
If creeping excessive, determine cause and correct	
Check hall signal system for proper operation	
Replace burnt out bulbs as necessary	
Check alarm bell and communication system	
Check emergency switches	
All annual no-load safety tests, and 3 year full load-full speed safety tests	

Date of Service

Mechanic Signature

**ALOHA STADIUM
OTIS ESCALATORS MAINTENANCE CHECKLIST
EAST MOVABLE STAND
Page 1 of 2**

Date Service Performed: _____ Date of Last Service: _____

Name of Escalator _____

Mechanic: _____

**MONTHLY MAINTENANCE CHECKLIST
Page 1 of 2**

ESCALATOR MAINTENANCE	Comments
Examine, adjust, clean, tighten and replace if required, all combs and comb plates (combs are billable when damaged by others)	
Balustrades, decks, skirt panels, anti-slide devices and guards, shall be examined monthly, adjusted, properly fastened and aligned. Contractor shall be responsible for advising the State of the necessity to replace these products. The contractor shall be responsible for making all required replacements and repairs; excluding those resulting from negligence or misuse of the equipment by persons other than the contractor or contractor's employees, but including those necessitated by ordinary wear and tear.	
On a monthly basis, examine, adjust, clean, lubricate (as required by the manufacturer of the escalators, all equipment consisting of, but not limited to :	
Escalator drive machines	
Motors and brakes	
Controllers and switches	
Transformers	
Handrail drive devices	
Handrail guide roller	
Handrails, handrail brush guard	
Alignment devices	
Worms and gears	
Bearings and thrusts	
Upper and lower newel bearings	
Windings, commutators and rotating elements	
Contacts, coils, switches and relays	
Resistors and magnet frames	
Steps, demarcation strips, risers, rollers, tread, axels and wheels	
Step chains, handrail chains and drive chains	
Sprockets, pulleys and gears	
Tension devices	
Landing plates	
Lubricants	
Under steps and comb lighting	
Safety devices	
Perform a general clean down of escalator equipments,	

including pits, pans and balustrade interiors as conditions warrants		
Perform a total clean down of escalator equipments, including pits, pans and balustrade interiors as conditions warrants Annually every August		
Wax handrails, as necessary, to provide smooth, quiet operation		
Perform an annual test of all operating and safety devices and governors in accordance with ANSI A17.2 as amended. These tests must be conducted in the presence of an authorized representative of the State.		
Escalators shall be maintained, furnishing all materials, labor, and supplies to comply with the requirements of the American Standard Safety Code ANSI A11.1, including all latest revisions and addenda, hereinafter		

<u>REPAIR OF ESCALATORS DURING THE DURATION OF THIS CONTRACT</u>		<u>Comments</u>
Repair involve all labor, materials and supplies required to do the following:		
Replace the step riser including step tread with new original Equipment manufacturer's parts or equivalent		
Replace the step roller assemblies including the new flanged type assembly with new original equipment manufacturer's parts or equivalent.		
Save, clean and store reusable step risers for future use		

Date Service Performed: _____

Name of Escalator Mechanic _____

**ALOHA STADIUM
MONTGOMERY ESCALATORS MAINTENANCE CHECKLIST
WEST MOVABLE STAND
Page 1 of 2**

Date Service Performed: _____ Date of Last Service: _____

Name of Escalator _____

Mechanic: _____

MONTHLY MAINTENANCE CHECKLIST

ESCALATOR MAINTENANCE	Comments
Examine, adjust, clean, tighten and replace if required, all combs and comb plates (combs are billable when damaged by others)	
Balustrades, decks, skirt panels, anti-slide devices and guards, shall be examined monthly, adjusted, properly fastened and aligned. Contractor shall be responsible for advising the State of the necessity to replace these products. The contractor shall be responsible for making all required replacements and repairs; excluding those resulting from negligence or misuse of the equipment by persons other than the contractor or contractor's employees, but including those necessitated by ordinary wear and tear.	
On a monthly basis, examine, adjust, clean, lubricate (as required by the manufacturer of the escalators, all equipment consisting of, but not limited to :	
Escalator drive machines	
Motors and brakes	
Controllers and switches	
Transformers	
Handrail drive devices	
Handrail guide roller	
Handrails, handrail brush guard	
Alignment devices	
Worms and gears	
Bearings and thrusts	
Upper and lower newel bearings	
Windings, commutators and rotating elements	
Contacts, coils, switches and relays	
Resistors and magnet frames	
Steps, demarcation strips, risers, rollers, tread, axels and wheels	
Step chains, handrail chains and drive chains	
Sprockets, pulleys and gears	
Tension devices	
Landing plates	
Lubricants	
Under steps and comb lighting	
Safety devices	

Perform a general clean down of escalator equipments, including pits, pans and balustrade interiors as conditions warrants		
Perform a total clean down of escalator equipments, including pits, pans and balustrade interiors as conditions warrants Annually every August		
Wax handrails, as necessary, to provide smooth, quiet operation		
Perform an annual test of all operating and safety devices and governors in accordance with ANSI A17.2 as amended. These tests must be conducted in the presence of an authorized representative of the State.		
Escalators shall be maintained, furnishing all materials, labor, and supplies to comply with the requirements of the American Standard Safety Code ANSI A11.1, including all latest revisions and addenda, hereinafter		

<u>REPAIR OF ESCALATORS DURING THE DURATION OF THIS CONTRACT</u>	<u>Comments</u>
Repair involve all labor, materials and supplies required to do the following:	
Replace the step riser including step tread with new original Equipment manufacturer's parts or equivalent	
Replace the step roller assemblies including the new flanged type assembly with new original equipment manufacturer's parts or equivalent.	
Save, clean and store reusable step risers for future use	

Date Service Performed: _____

Name of Escalator Mechanic _____

SPARE PARTS LIST

Maintain a supply of genuine Otis/Montgomery parts on the Oahu warehouse.

Item Description	Quantity	Otis	Montgomery
Step chain links and pins	1 section	X	X
Step and chain rollers	10 each	X	X
Handrail drive belt & rollers	1 each	X	X
Comb plates (Complete set)	1 set	X	X
Escalator steps	4 each	X	X
Escalator step threads (Complete Set)	2 sets	X	X
Gear box bearings and seats	1 set	X	X
Motor seats and bearings	1 set	X	X
Escalator drive sprocket	1 each	X	X
Drive chain	2 each	X	
Tension sprocket	1 each	X	
Door operator motor	1 each	X	
Door guides	1 set	X	
Hydraulic valve console for up-down valve	1 each	X	
Safety edge	1 each	X	
Car and corridor push button numbers	2 sets	X	
Complete door lock assembly	1 set	X	
Leveling switches	1 each	X	
Motor and M.G. brushes	6 each	X	
Motor control A/C	1 each	X	
E-5000 Brake Board	1 each	X	
E-5000 CPU Board	1 each	X	
E-5000 ESC Board	1 each	X	
Eco Start Control	1 each	X	
40 or 50 hp hydraulic pump motor	1 set	X	
Hydraulic ram packing board	1 set	X	
Power stage interface DD	1 each	X	
Main control board	1 each	X	
DC Drive Motion Board	1 each	X	
Hoist motor – Traction only	1 each	X	
Hoist ropes – Traction only	1 each	X	
Motor generator – Traction only	1 each	X	
Governor rope – Traction only	1 each	X	
All controller replacement parts for both elevators (contacts, relay, resistors etc...)		X	

SPARE PARTS LIST

Maintain a supply of genuine Otis/Montgomery parts on the Oahu warehouse.

Item Description	Quantity	Otis	Montgomery
Step chain links and pins	1 section	X	X
Step and chain rollers	10 each	X	X
Handrail drive belt & rollers	1each	X	X
Comb plates (Complete set)	1 set	X	X
Escalator steps	4 each	X	X
Escalator step threads (Complete Set)	2 sets	X	X
Gear box bearings and seats	1 set	X	X
Motor seats and bearings	1 set	X	X
Escalator drive sprocket	1 each	X	X
Drive chain	2 each	X	
Tension sprocket	1 each	X	
Door operator motor	1 each	X	
Door guides	1 set	X	
Hydraulic valve console for up-down valve	1 each	X	
Safety edge	1 each	X	
Car and corridor push button numbers	2 sets	X	
Complete door lock assembly	1set	X	
Leveling switches	1 each	X	
Motor and M.G. brushes	6 each	X	
Motor control A/C	1 each	X	
E-5000 Brake Board	1 each	X	
E-5000 CPU Board	1 each	X	
E-5000 ESC Board	1 each	X	
Eco Start Control	1 each	X	
40 or 50 hp hydraulic pump motor	1 set	X	
Hydraulic ram packing board	1 set	X	
Power stage interface DD	1 each	X	
Main control board	1 each	X	
DC Drive Motion Board	1 each	X	
Hoist motor – Traction only	1 each	X	
Hoist ropes – Traction only	1 each	X	
Motor generator – Traction only	1 each	X	
Governor rope – Traction only	1 each	X	
All controller replacement parts for both elevators (contacts, relay, resistors etc...)		X	

GENERAL CONDITIONS

Table of Contents

	<u>Page(s)</u>
1. Coordination of Services by the STATE	2
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.....	2
3. Personnel Requirements	3
4. Nondiscrimination	3
5. Conflicts of Interest	3
6. Subcontracts and Assignments	3
7. Indemnification and Defense	4
8. Cost of Litigation.....	4
9. Liquidated Damages	4
10. STATE'S Right of Offset.....	4
11. Disputes	4
12. Suspension of Contract.....	4
13. Termination for Default.....	5
14. Termination for Convenience.....	6
15. Claims Based on the Agency Procurement Officer's Actions or Omissions.....	8
16. Costs and Expenses	8
17. Payment Procedures; Final Payment; Tax Clearance	9
18. Federal Funds	9
19. Modifications of Contract.....	9
20. Change Order.....	10
21. Price Adjustment	11
22. Variation in Quantity for Definite Quantity Contracts	11
23. Changes in Cost-Reimbursement Contract.....	11
24. Confidentiality of Material	12
25. Publicity	12
26. Ownership Rights and Copyright	12
27. Liens and Warranties	12
28. Audit of Books and Records of the CONTRACTOR.....	13
29. Cost or Pricing Data	13
30. Audit of Cost or Pricing Data	13
31. Records Retention.....	13
32. Antitrust Claims.....	13
33. Patented Articles.....	13
34. Governing Law	14
35. Compliance with Laws	14
36. Conflict between General Conditions and Procurement Rules	14
37. Entire Contract.....	14
38. Severability.....	14
39. Waiver	14
40. Pollution Control	14
41. Campaign Contributions.....	14
42. Confidentiality of Personal Information.....	14

GENERAL CONDITIONS

1. Coordination of Services by the STATE. The head of the purchasing agency ("HOPA") (which term includes the designee of the HOPA) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract. The CONTRACTOR shall maintain communications with HOPA at all stages of the CONTRACTOR'S work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
 - a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE'S opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the STATE does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the STATE.
 - b. The CONTRACTOR and the CONTRACTOR'S employees and agents are not by reason of this Contract, agents or employees of the State for any purpose, and the CONTRACTOR and the CONTRACTOR'S employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.
 - c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.
 - d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.
 - e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, HRS, and paragraph 17 of these General Conditions.
 - f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR'S employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

- g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
 - h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
 - i. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.
3. Personnel Requirements.
- a. The CONTRACTOR shall secure, at the CONTRACTOR'S own expense, all personnel required to perform this Contract.
 - b. The CONTRACTOR shall ensure that the CONTRACTOR'S employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.
4. Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
5. Conflicts of Interest. The CONTRACTOR represents that neither the CONTRACTOR, nor any employee or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR'S performance under this Contract.
6. Subcontracts and Assignments. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (i) the CONTRACTOR obtains the prior written consent of the STATE, and (ii) the CONTRACTOR'S assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawaii, as provided in section 40-58, HRS.
- a. Recognition of a successor in interest. When in the best interest of the State, a successor in interest may be recognized in an assignment contract in which the STATE, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:
 - (1) The Assignee assumes all of the CONTRACTOR'S obligations;
 - (2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the STATE; and
 - (3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.
 - b. Change of name. When the CONTRACTOR asks to change the name in which it holds this Contract with the STATE, the procurement officer of the purchasing agency (hereinafter referred to as the "Agency procurement officer") shall, upon receipt of a document acceptable or satisfactory to the

Agency procurement officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Contract with the CONTRACTOR to effect such a change of name. The amendment to this Contract changing the CONTRACTOR'S name shall specifically indicate that no other terms and conditions of this Contract are thereby changed.

- c. Reports. All assignment contracts and amendments to this Contract effecting changes of the CONTRACTOR'S name or novations hereunder shall be reported to the chief procurement officer (CPO) as defined in section 103D-203(a), HRS, within thirty days of the date that the assignment contract or amendment becomes effective.
 - d. Actions affecting more than one purchasing agency. Notwithstanding the provisions of subparagraphs 6a through 6c herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the State, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the CPO's office.
7. Indemnification and Defense. The CONTRACTOR shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.
8. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.
9. Liquidated Damages. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the STATE the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the STATE reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 13d (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR remains liable for damages caused other than by delay.
10. STATE'S Right of Offset. The STATE may offset against any monies or other obligations the STATE owes to the CONTRACTOR under this Contract, any amounts owed to the State of Hawaii by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the State of Hawaii by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The STATE will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this paragraph, amounts owed to the State of Hawaii shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the State of Hawaii, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the State of Hawaii under such payment or other settlement plan.
11. Disputes. Disputes shall be resolved in accordance with section 103D-703, HRS, and chapter 3-126, Hawaii Administrative Rules ("HAR"), as the same may be amended from time to time.
12. Suspension of Contract. The STATE reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.
- a. Order to stop performance. The Agency procurement officer may, by written order to the CONTRACTOR, at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified

period not exceeding sixty (60) days after the order is delivered to the CONTRACTOR, unless the parties agree to any further period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Stop performance orders shall include, as appropriate: (1) A clear description of the work to be suspended; (2) Instructions as to the issuance of further orders by the CONTRACTOR for material or services; (3) Guidance as to action to be taken on subcontracts; and (4) Other instructions and suggestions to the CONTRACTOR for minimizing costs. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and suspend all performance under this Contract at the time stated, provided, however, the CONTRACTOR shall take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the Agency procurement officer shall either:

- (1) Cancel the stop performance order; or
 - (2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.
- b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the Contract shall be modified in writing accordingly, if:
- (1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract; and
 - (2) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of performance stoppage; provided that, if the Agency procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.
- c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.
- d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

13. Termination for Default.

- a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the Agency procurement officer may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the Agency procurement officer, such officer may terminate the CONTRACTOR'S right to proceed with the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency procurement officer may procure similar goods or services in a manner and upon the terms deemed appropriate by the Agency procurement officer. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the Agency procurement officer, the CONTRACTOR shall take timely, reasonable, and

necessary action to protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest.

- c. Compensation. Payment for completed goods and services delivered and accepted by the STATE shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Agency procurement officer. If the parties fail to agree, the Agency procurement officer shall set an amount subject to the CONTRACTOR'S rights under chapter 3-126, HAR. The STATE may withhold from amounts due the CONTRACTOR such sums as the Agency procurement officer deems to be necessary to protect the STATE against loss because of outstanding liens or claims and to reimburse the STATE for the excess costs expected to be incurred by the STATE in procuring similar goods and services.
- d. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the STATE under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.
- e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.
- f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. Termination for Convenience.

- a. Termination. The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.
- b. CONTRACTOR'S obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the STATE. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.

- c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

- (1) Any completed goods or work product; and
- (2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract.

The CONTRACTOR shall, upon direction of the Agency procurement officer, protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest. If the Agency procurement officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such goods and manufacturing materials. Use of this paragraph in no way implies that the STATE has breached the Contract by exercise of the termination for convenience provision.

- d. Compensation.

- (1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data, submitted to the extent required by chapter 3-122, HAR, bearing on such claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the Agency procurement officer may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph 14d(3) below.
- (2) The Agency procurement officer and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted as required and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by the STATE, the proceeds of any sales of goods and manufacturing materials under subparagraph 14c, and the Contract price of the performance not terminated.
- (3) Absent complete agreement under subparagraph 14d(2) the Agency procurement officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under subparagraph 14d(2) shall not duplicate payments under this subparagraph for the following:
 - (A) Contract prices for goods or services accepted under the Contract;
 - (B) Costs incurred in preparing to perform and performing the terminated portion of the performance plus a fair and reasonable profit on such portion of the performance, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;
 - (C) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to subparagraph 14b. These costs must not include costs paid in accordance with subparagraph 14d(3)(B);
 - (D) The reasonable settlement costs of the CONTRACTOR, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid the CONTRACTOR under this subparagraph shall not exceed the

total Contract price plus the reasonable settlement costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph 14d(2), and the contract price of performance not terminated.

- (4) Costs claimed, agreed to, or established under subparagraphs 14d(2) and 14d(3) shall be in accordance with Chapter 3-123 (Cost Principles) of the Procurement Rules.

15. Claims Based on the Agency Procurement Officer's Actions or Omissions.

- a. Changes in scope. If any action or omission on the part of the Agency procurement officer (which term includes the designee of such officer for purposes of this paragraph 15) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

- (1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:

- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
- (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
- (C) Within such further time as may be allowed by the Agency procurement officer in writing.

- (2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;

- (3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and

- (4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.

- b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

- c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

16. Costs and Expenses. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:

- a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.
 - b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
 - c. Unless prior written approval of the HOPA is obtained, reimbursement for subsistence allowance (i.e., hotel and meals, etc.) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel that are set forth in the current Governor's Executive Order authorizing adjustments in salaries and benefits for state officers and employees in the executive branch who are excluded from collective bargaining coverage.
17. Payment Procedures; Final Payment: Tax Clearance.
- a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.
 - b. Subject to available funds. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Further, all payments shall be made in accordance with and subject to chapter 40, HRS.
 - c. Prompt payment.
 - (1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and
 - (2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.
 - d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.
18. Federal Funds. If this Contract is payable in whole or in part from federal funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal funds, the CONTRACTOR shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the STATE to receive anticipated federal funds shall not be considered a breach by the STATE or an excuse for nonperformance by the CONTRACTOR.
19. Modifications of Contract.
- a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.
 - b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.

- c. Agency procurement officer. By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:
 - (A) Changes in the work within the scope of the Contract; and
 - (B) Changes in the time of performance of the Contract that do not alter the scope of the Contract work.
 - d. Adjustments of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.
 - e. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Contract is not made prior to final payment under this Contract.
 - f. Claims not barred. In the absence of a written contract modification, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.
 - g. CPO approval. If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least \$25,000.00 or ten per cent (10%) of the initial contract price, whichever increase is higher, must receive the prior approval of the CPO.
 - h. Tax clearance. The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid.
 - i. Sole source contracts. Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.
20. Change Order. The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:
- (1) Drawings, designs, or specifications, if the goods or services to be furnished are to be specially provided to the STATE in accordance therewith;
 - (2) Method of delivery; or
 - (3) Place of delivery.
- a. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the Agency procurement officer promptly and duly makes the provisional adjustments in payment or time for performance as may be reasonable. By

proceeding with the work, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, or any extension of time for completion.

- b. Time period for claim. Within ten (10) days after receipt of a written change order under subparagraph 20a, unless the period is extended by the Agency procurement officer in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response by CONTRACTOR cannot be waived and shall be a condition precedent to the assertion of a claim.
- c. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if a written response is not given prior to final payment under this Contract.
- d. Other claims not barred. In the absence of a change order, nothing in this paragraph 20 shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. Price Adjustment.

- a. Price adjustment. Any adjustment in the contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:
 - (1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - (2) By unit prices specified in the Contract or subsequently agreed upon;
 - (3) By the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;
 - (4) In such other manner as the parties may mutually agree; or
 - (5) In the absence of agreement between the parties, by a unilateral determination by the Agency procurement officer of the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as computed by the Agency procurement officer in accordance with generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126, HAR.
- b. Submission of cost or pricing data. The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of chapter 3-122, HAR.

22. Variation in Quantity for Definite Quantity Contracts. Upon the agreement of the STATE and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in this Contract, may be increased by a maximum of ten per cent (10%); provided the unit prices will remain the same except for any price adjustments otherwise applicable; and the Agency procurement officer makes a written determination that such an increase will either be more economical than awarding another contract or that it would not be practical to award another contract.

23. Changes in Cost-Reimbursement Contract. If this Contract is a cost-reimbursement contract, the following provisions shall apply:

- a. The Agency procurement officer may at any time by written order, and without notice to the sureties, if any, make changes within the general scope of the Contract in any one or more of the following:
 - (1) Description of performance (Attachment 1);
 - (2) Time of performance (i.e., hours of the day, days of the week, etc.);
 - (3) Place of performance of services;

- (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the STATE in accordance with the drawings, designs, or specifications;
 - (5) Method of shipment or packing of supplies; or
 - (6) Place of delivery.
 - b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the Agency procurement officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the Contract accordingly.
 - c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within thirty (30) days from the day of receipt of the written order. However, if the Agency procurement officer decides that the facts justify it, the Agency procurement officer may receive and act upon a proposal submitted before final payment under the Contract.
 - d. Failure to agree to any adjustment shall be a dispute under paragraph 11 of this Contract. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.
 - e. Notwithstanding the terms and conditions of subparagraphs 23a and 23b, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.
24. Confidentiality of Material.
- a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
 - b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.
25. Publicity. The CONTRACTOR shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, including the HOPA, the CPO, the Agency procurement officer, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR'S brochures, advertisements, or other publicity of the CONTRACTOR. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the Agency procurement officer.
26. Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract.
27. Liens and Warranties. Goods provided under this Contract shall be provided free of all liens and provided together with all applicable warranties, or with the warranties described in the Contract documents, whichever are greater.

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:
- a. The cost or pricing data, and
 - b. A state contract, including subcontracts, other than a firm fixed-price contract.
29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.
- If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.
30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.
31. Records Retention.
- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
 - (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.
32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.
33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

34. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.
35. Compliance with Laws. The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.
36. Conflict Between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
37. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.
38. Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
39. Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.
40. Pollution Control. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.
41. Campaign Contributions. The CONTRACTOR is hereby notified of the applicability of 11-205.5, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.
42. Confidentiality of Personal Information.
- a. Definitions.
- "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:
- (1) Social security number;
 - (2) Driver's license number or Hawaii identification card number; or

- (3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

"Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

b. Confidentiality of Material.

- (1) All material given to or made available to the CONTRACTOR by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the STATE.
- (2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.
- (3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.
- (4) CONTRACTOR shall report to the STATE in a prompt and complete manner any security breaches involving personal information.
- (5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this paragraph.
- (6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by CONTRACTOR on behalf of the STATE.

c. Security Awareness Training and Confidentiality Agreements.

- (1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.
- (2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:
 - (A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;
 - (B) Access to the personal information will be allowed only as necessary to perform the Contract; and
 - (C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by CONTRACTOR of this paragraph by CONTRACTOR, the STATE may at its sole discretion:

- (1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or
- (2) Immediately terminate this Contract.

In either instance, the CONTRACTOR and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

e. Records Retention.

- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
- (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.